

JAMES B. CHANIN (SBN 76043)  
JULIE M. HOUK (SBN 114968)  
LAW OFFICES OF JAMES B. CHANIN  
3050 Shattuck Avenue  
Berkeley, California 94705  
Telephone: (510) 848-4752, Ext. 2  
Facsimile: (510) 848-5819  
Email: jbcofc@aol.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JACK ZOLOWICZ, et al.,	)	Case No.: C06-05915 MJJ (JL)
	)	
Plaintiff,	)	<b>EX PARTE APPLICATION FOR, AND</b>
	)	<b>[REDACTED] ORDER APPROVING,</b>
vs.	)	<b>COMPROMISE OF CLAIMS OF MINOR</b>
	)	<b>N.Z.</b>
CITY OF OAKLAND, et al.,	)	
	)	<b>[FILED UNDER SEAL PURSUANT TO</b>
Defendants.	)	<b>NORTHERN DISTRICT GENERAL</b>
	)	<b>ORDER 53 – REDACTED VERSION E-</b>
	)	<b>FILED]</b>

**FACTS PERTAINING TO PLAINTIFF'S CLAIMS**

1. Petitioner, JACK ZOLOWICZ, is the guardian ad litem of minor Plaintiff, N.Z.
2. Minor Plaintiff N.Z. is a male born on [REDACTED] 1990, and is now 17 years old.
3. Date of Incident: September 18, 2005.
4. Place of Incident: Oakland, California.
5. The events giving rise to the minor's claim occurred as follows: On or about September 18, 2005, Plaintiff/Petitioner, JACK ZOLWICZ, and his minor son, Plaintiff N.Z., attended a Raider's football game at the Oakland Coliseum. Mr. Zolowicz parked his vehicle in a private parking lot located at 675 Hegenberger, Oakland, California.

1 Following the conclusion of the Raiders' game, the plaintiffs left the Oakland Coliseum  
2 and proceeded to the private parking lot to retrieve their vehicle. While the plaintiffs were in the  
3 private parking lot, they noticed that some individuals, entirely unrelated to the plaintiffs, were  
4 shooting off firecrackers/fireworks in a vacant lot next to the private parking lot where the  
5 plaintiffs' vehicle was located. The plaintiffs were not involved in setting off any of the  
6 firecrackers or fireworks and there was no reasonable or probable cause to believe that they were  
7 involved in that activity.

8 Nevertheless, OPD Officers L. Leonis and J. Scott, stopped the minor Plaintiff, N.Z., in  
9 the parking lot and detained him until his father, Plaintiff/Petitioner, Jack Zolowicz, advised  
10 these officers that his son had not been involved in the fireworks activity. The minor Plaintiff  
11 suffered no physical injuries as a result of this detention.

12 Subsequently, Plaintiff/Petitioner, JACK ZOLOWICZ, was standing in the parking lot  
13 speaking with an acquaintance, Danny Chu, when they were confronted by OPD Officers M.  
14 Wingate, S. Knight and Javier Roca, after Mr. Chu pointed at officers Knight and Wingate while  
15 they were arresting other persons who had been involved in the fireworks activity. Thereafter,  
16 Plaintiff/Petitioner, JACK ZOLOWICZ, was subjected to excessive force by Officer Roca and  
17 suffered a very serious injury to his knee that has required medical treatment, and will require  
18 treatment in the future, including at least one, if not more, knee replacements and/or other  
19 treatment.

20 After Plaintiff/Petitioner, JACK ZOLOWICZ, was injured by Officer Roca, he  
21 complained about the officer's conduct to OPD Sergeant M. Riley. Thereafter, plaintiffs  
22 contends that they were issued citations falsely accusing both of them with crimes they did not  
23 commit in retaliation for these complaints and to avoid liability for injuring Plaintiff/Petitioner,  
24 JACK ZOLOWICZ.

6. On October 19, 2007, all of the parties, including Petitioner/Plaintiff, JACK ZOLOWICZ, and his minor son, Plaintiff N.Z., attended a settlement conference before this Court. At that time, the parties reached agreement on the settlement of this action, which is subject to approval by the City of Oakland City Council and upon approval of this application for approval of minor's compromise.

7. Due to the serious nature of the injury sustained by plaintiff JACK ZOLOWICZ to his knee and the significant impact this injury has had on Mr. Zolowicz' income and his ability to support his family, including the minor plaintiff, and given the fact that the minor did not sustain any physical injuries or out of pocket losses attributable to the incident, the proposed settlement will result in a gross recovery of \$350,000.00 to Plaintiff/Petitioner, JACK ZOLOWICZ, with no monetary sum paid to the minor Plaintiff, N.Z. from these gross settlement proceeds.

8. All parties, including Plaintiff/Petitioner and the minor Plaintiff were present at the time of the settlement conference and agreed to the proposed settlement described herein.

9. Petitioner has made a careful and diligent inquiry and investigation to ascertain the facts relating to said incident, the responsibility therefore, and the nature, extent and seriousness of said minor's damages. Petitioner fully understands that if this compromise is approved by the

1 Court and is consummated, the minor plaintiff's claims will be dismissed with prejudice and that  
2 he shall be forever barred and prevented from seeking any further recovery or compensation on  
3 account of the events which are the subject of this litigation.

4 10. Petitioner agrees that he has been fully advised by his counsel of the relative merits  
5 of the case and the fairness of the settlement.

6 11. Petitioner hereby recommends this compromise settlement to the Court as being fair,  
7 reasonable, and in the best interests of the minor.

8  
9 Dated: November 26, 2007

\_\_\_\_\_/S/\_\_\_\_\_  
10 JAMES B. CHANIN  
11 Attorney for Plaintiffs and  
12 Petitioner  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**VERIFICATION**

I, JACK ZOLOWICZ, do hereby declare:

1. I am the duly appointed guardian ad litem for the minor Plaintiff, N.Z., and am the petitioner herein. I have read this petition and have personal knowledge of the facts stated therein and know those facts to be true and correct. As to those matters stated to be based upon information and belief, I am informed and believe them to be true and correct. Having participated in the settlement conference before this Court and having considered the relative merits of the case, the damages of the Minor and the fairness of the settlement proposal, I do hereby recommend that the Court approve this settlement. I further understand that should the Court approve the compromise of the Minor's claims and should the City of Oakland City Council approve this settlement, the minor's claims will be dismissed with prejudice and he shall be forever barred from obtaining any further or additional monetary or other recovery from the City of Oakland and its employees, agents and/or servants with respect to the events which are the subject of this litigation.

2. I declare under penalty of perjury that the foregoing is true and correct. Executed this 26<sup>th</sup> day of November 2007, at Danville, California.

\_\_\_\_\_/S/\_\_\_\_\_  
JACK ZOLOWICZ  
Petitioner

**CONSENT OF THE MINOR PLAINTIFF**

I, N.Z., declare:

1. I am the minor plaintiff in this action. My date of birth is [REDACTED] 1990. I am currently 17 years old.

2. I attended the October 19, 2007 settlement conference in this action. I was present when the proposed settlement was agreed to on the record. I understand that if the Court approves the settlement and if the settlement is approved by the City of Oakland City Council, I will not receive any payment of the monetary settlement funds that will be paid to my father, JACK ZOLOWICZ.

3. I do hereby agree and consent to the proposed settlement and understand that if it is approved by the Court and by the City of Oakland City Council, my claims will be dismissed and I will not be entitled to receive any compensation in the future for any damages I sustained as a result of the incident which is the subject of this litigation.

4. I declare under penalty of perjury that the foregoing is true and a correct of my personal knowledge. Executed this 26<sup>th</sup> day of November 2007, at Danville, California.

\_\_\_\_\_/S/\_\_\_\_\_  
N.Z.  
Minor Plaintiff


**ORDER APPROVING COMPROMISE OF MINOR'S CLAIMS**

Having considered the application presented to the Court for approval of the compromise of the claims of the Minor Plaintiff N.Z., finding the contents of the Petition to be true and for good cause shown,

**IT IS HEREBY ORDERED THAT THE COMPROMISE OF THE PROPOSED SETTLEMENT DESCRIBED IN THE APPLICATION IS HEREBY APPROVED, SUBJECT TO THE APPROVAL OF THE SETTLEMENT BY THE CITY OF OAKLAND CITY COUNCIL.**

**IT IS SO ORDERED.**

November <sup>30</sup>\_\_, 2007

  
\_\_\_\_\_  
JAMES LARSON  
MAGISTRATE JUDGE OF THE  
UNITED STATES DISTRICT COURT